

Joseph P. McGill (admitted pro hac vice)  
Jennifer A. Cupples (admitted pro hac vice)  
Foley, Baron, Metzger & Juip, PLLC  
38777 Six Mile Road, Suite 300  
Livonia, MI 48152  
(734) 742-1825; Fax: (734) 521-2379  
Email: [jmcgill@fbmjlaw.com](mailto:jmcgill@fbmjlaw.com);  
[jcupples@fbmjlaw.com](mailto:jcupples@fbmjlaw.com)

Judith A. Studer, Attorney No. 5-2174  
Schwartz, Bon, Walker & Studer, LLC  
141 South Center Street, Suite 500  
Casper, WY 82601  
(307) 235-6681; Fax (307) 234-5099  
Email: [jstuder@schwartzbon.com](mailto:jstuder@schwartzbon.com)

*Attorneys for Defendant Triangle Tube*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

FRANCISCO L. HERRERA and JOANNA  
HERRERA, Co-Wrongful Death  
Representatives, for the exclusive  
benefit of the beneficiaries of MONICA  
HERRERA, deceased, who have sustained  
damages from her wrongfully caused death,

Plaintiffs,

-vs-

GREGORY BUCKINGHAM and DEBORAH  
BUCKINGHAM, but in their individual capacities  
as Trustees of the BUCKINGHAM FAMILY  
TRUST; and GREGORY BUCKINGHAM and  
DEBORAH BUCKINGHAM, as individual  
defendants; and WYOMING MECHANICAL,  
INC., a Wyoming Corporation; TRIANGLE  
TUBE/PHASE III CO. INC., a New Jersey  
Corporation; and M&G GROUP DURAVENT,  
INC., a New York Corporation,

Defendants.

Case No.: 2:15-cv-00128-NDF

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**CORRECTED EXHIBIT K**  
**TO TRIANGLE TUBE'S MOTION FOR SUMMARY JUDGMENT AS TO PLAINTIFFS'**  
**STRICT PRODUCTS LIABILITY CLAIMS**

**CERTIFICATE OF SERVICE**

I hereby certify that on September 7, 2016, I served **CORRECTED EXHIBIT K TO TRIANGLE TUBE'S MOTION FOR SUMMARY JUDGMENT AS TO PLAINTIFFS' STRICT PRODUCTS LIABILITY CLAIMS** upon:

David Lewis  
P. O. Box 8519  
Jackson, Wyoming 83002  
[davelewis@bresnan.net](mailto:davelewis@bresnan.net)

Christopher R. Reeves  
Dick Waltz, Esq.  
Waltz Law Firm  
1660 Lincoln Street, Ste. 2510  
Denver, Colorado 80264  
[creeves@waltzlaw.com](mailto:creeves@waltzlaw.com)  
[DWaltz@WaltzLaw.com](mailto:DWaltz@WaltzLaw.com)

Julie Tiedeken  
Sean W. Scoggin  
P. O. Box 748  
Cheyenne, Wyoming 82003  
[jtiedeken@mtslegal.net](mailto:jtiedeken@mtslegal.net)  
[sscoggin@mtslegal.net](mailto:sscoggin@mtslegal.net)

Katherine L. Mead, Esq.  
P.O. Box 1809  
Jackson, Wyoming 83001  
[kate@meadlaw.net](mailto:kate@meadlaw.net)

via the Court's ECF filing system.

/s/Cheryl E. Ballew  
Cheryl E. Ballew

MARK PASSAMANECK, PE  
HERRERA vs. BUCKINGHAM

July 26, 2016

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J0393061JW

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

Civil Action No. 15-CV-128-F

FRANCISCO L. HERRERA and JOANNA HERRERA, Co-Wrongful  
Death Representatives, for Exclusive Benefit of the  
Beneficiaries of MONICA HERRERA, deceased, who have  
sustained Damages from her wrongfully caused death,

Plaintiffs,

vs.

GREGORY BUCKINGHAM and DEBORAH BUCKINGHAM, but in  
their individual capacities as Trustees of the  
BUCKINGHAM FAMILY TRUST; and GREGORY BUCKINGHAM and  
DEBORAH BUCKINGHAM as Individual Defendants; and  
WYOMING MECHANICAL, INC., a Wyoming Corporation;  
TRIANGLE TUBE/PHASE II CO., INC., a New Jersey  
Corporation; and M&G DURAVENT, INC., a New York  
Corporation,

Defendants.

VIDEOTAPED DEPOSITION OF MARK PASSAMANECK, PE

July 26, 2016

Pursuant to Notice taken on behalf of Defendant M&G  
DuraVent, Inc., at 1660 Lincoln Street, Suite 2510,  
Denver, Colorado 80264, at 9:11 a.m., before  
Jodi M. Wagner, Registered Professional Reporter and  
Notary Public within Colorado.



1 Q. Is it your belief that Wyoming Mechanical  
2 knew or should have known that they were required to  
3 follow applicable codes, industry standards, and  
4 Triangle Tube's instructions?

5 A. Yes.

6 Q. Is it your belief that Wyoming Mechanical  
7 failed to notify Greg or Deborah Buckingham of the  
8 danger of vent separation in relation to potential  
9 exposure to carbon monoxide and to instruct them to  
10 turn the boiler off until Wyoming Mechanical had an  
11 opportunity to visit the site and investigate the  
12 problem?

13 MS. TIEDEKEN: Object as to form.

14 (The pending question was read back.)

15 A. Yes.

16 Q. (BY MR. MCGILL) And if I recall your prior  
17 testimony, you have no independent data, as we've  
18 talked about, to support a conclusion that there's any  
19 specific defect in the Triangle Tube boiler that was a  
20 cause of Monica Herrera's death?

21 MS. TIEDEKEN: Object to the form.

22 Q. (BY MR. MCGILL) You can answer.

23 A. I have information and data from Triangle  
24 Tube that is consistent with hard starts and problems  
25 with the boiler that I do believe contributed to it.

1 I haven't reviewed all of it yet because I have just  
2 gotten some of it.

3 Q. Have you conducted any independent tests  
4 aside from that, from those documents, to support your  
5 conclusion of a defect in the Triangle Tube boiler?

6 A. Not at this time.

7 Q. Looking at your initial report from January  
8 2016. I believe it's marked as Exhibit 215.

9 A. 215?

10 Q. Yes, sir.

11 A. Okay.

12 Q. Are your assumptions at all stated in --  
13 well, first of all, in the context of providing an  
14 expert report, as you've done in this litigation, do  
15 you understand what the term "assumptions" means?

16 A. I do.

17 Q. And are your assumptions stated anywhere in  
18 Exhibit 215?

19 A. I did not make any assumptions in that case.

20 Q. And then with respect to -- same question  
21 concerning your -- I'll just describe them as two  
22 supplements to your initial report.

23 Are your assumptions stated in those  
24 reports?

25 A. I'm not basing anything on assumptions.

1 reference -- you reference Dr. Cuzzillo and the design  
2 of the ignitor and the cabinet of the Buckingham  
3 boiler. It's in the second full paragraph.

4 A. Second full paragraph, page 3?

5 Q. Of your January 4, 2016, report.

6 A. Okay.

7 Q. Other than -- the way you term it is  
8 Cuzzillo -- "Cuzzillo believes" is the way you term  
9 it.

10 My question is do you have any --

11 A. Please let me find that real quick.

12 Q. Oh, I'm sorry.

13 A. I'm sorry. I don't know where you are.

14 Q. Closer to the middle of the paragraph.

15 MS. TIEDEKEN: Are you looking at "However,  
16 based on his deposition"?

17 MR. MCGILL: Yep.

18 MS. TIEDEKEN: It's in the middle of that  
19 paragraph.

20 THE DEPONENT: Okay. I got it. I'm sorry.

21 Q. (BY MR. MCGILL) So you're referencing  
22 Dr. Cuzzillo's deposition on those issues, the ignitor  
23 and the cabinet. And I think you've already answered  
24 this question, but just to be certain.

25 You haven't conducted any independent

1 testing to support those conclusions there in your  
2 report about the ignitor and the cabinet? You don't  
3 have any independent data other than what Dr. Cuzzillo  
4 is saying in his deposition?

5 A. And, well, in the test data from the lab  
6 exam. Otherwise, no.

7 Q. And the test data you're talking about, the  
8 recirculation -- the pouring of the exhaust fumes  
9 underneath the cabinet?

10 A. Yes.

11 Q. And that's the test that you admit was not  
12 conducted pursuant to any ANSI standard; correct?

13 A. Yes.

14 Q. On page 4 of your report you talk about CO  
15 concentration levels increasing.

16 A. Okay.

17 Q. Again, you're referencing Dr. Cuzzillo?

18 A. Which paragraph are you in?

19 Q. The second paragraph.

20 A. Okay.

21 Q. So the last sentence reads: "The time frame  
22 for the incident CO increase was not discussed or  
23 opined upon by Mr. Cuzzillo, nor was the curve the CO  
24 concentration levels would have followed."

25 You mentioned that in your initial record.

1 Have you done any further study or research to shore  
2 up that particular point?

3 A. No.

4 MS. TIEDEKEN: Object to the form.

5 Q. (BY MR. MCGILL) Is there any question in  
6 your mind that Wyoming Mechanical was aware of the  
7 flue gas leak from the Buckingham boiler as a result  
8 of the venting becoming detached prior to Monica  
9 Herrera's death?

10 A. No.

11 Q. Are there prudent safety measures that you  
12 are suggesting that should have been taken by either  
13 the Buckinghams or Mr. Schuler that could have  
14 prevented the CO exposure to Monica Herrera?

15 A. Other than not being in the house, no.

16 Q. So nothing else that Mr. Schuler or  
17 Mr. Buckingham could or should have done?

18 A. Well, in one of my reports -- I'll find it  
19 for you. Page 4, on the very bottom, the very last  
20 sentence.

21 MS. MEAD: Which report, please?

22 THE DEPONENT: I'm sorry. January 4 report,  
23 page 4, the very last sentence.

24 Q. (BY MR. MCGILL) I see it. It reads: "In  
25 addition, the Buckinghams could have made a call to



1 Q. And that would be the -- well, what are the  
2 additional things that you've collected that you  
3 contend address these additional elements that are  
4 referenced in your report?

5 A. Well, the first is the paragraph below, as  
6 well as hard starts of the boiler.

7 Q. Okay. Have you conducted any -- the  
8 paragraph below talks to the issue of thermal cycling,  
9 and you mention hard starts of the boiler. And I  
10 think you've answered the question regarding the hard  
11 starts and the collection of data.

12 But have you collected any independent data  
13 regarding the issue of thermal cycling as it may or  
14 may not have had an impact with respect to the  
15 Buckingham boiler and Monica Herrera's death?

16 A. No.

17 Q. Your second supplemental report, which is  
18 217, page 2. There's a sentence in there about  
19 recirculation of gas in the boiler cabinet.

20 And, again, just to be clear, other than  
21 what was done in the lab -- at Mr. Freeman's lab, you  
22 haven't collected any other data concerning  
23 recirculating of carbon monoxide through any Triangle  
24 Tube boiler cabinets, have you?

25 A. No.

1 Q. Do you know what a pressure transducer is?

2 A. I do.

3 Q. Have you used any pressure transducers to  
4 attempt to measure any delayed ignitions from any  
5 Triangle Tube boilers?

6 A. No.

7 Q. Have you used any pressure transducers or  
8 other such measuring devices to attempt to measure the  
9 pressure associated with the type of sound that Greg  
10 Buckingham described coming from the Triangle Tube  
11 boiler?

12 A. No.

13 Q. Would you take a look at Exhibits 199 and  
14 200.

15 A. Okay. I'm at 199.

16 Q. Can you identify that document for the  
17 record, please.

18 A. Yeah, this is part of Triangle Tube's  
19 testing of the Prestige Solo 250 boiler.

20 Q. Does that appear to have been prepared by  
21 the independent testing agency identified as Intertek?

22 A. Yes.

23 Q. And could you look at Exhibit 200, please.  
24 Could you identify that for the record, please.

25 A. Same thing.